

REMARKS:

In the outstanding Office Action, the Examiner rejected claims 12-24. Claims 12, 14, 15, 17, 18, 20, 21 and 23 are amended herein, and new claim 25 is added. No new matter is presented. Claims 1-11 remain cancelled. Claims 13, 16, 19, 22 and 24 are cancelled herein without prejudice.

Thus, claims 12, 14, 15, 17, 18, 20, 21, 23 and 25 are pending and under consideration. The rejections are traversed below.

REJECTION UNDER 35 U.S.C. § 103(a):

Claims 12-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,684,195 (Deaton) in view of Official Notice.

Deaton is directed to generating a signal representative of a customer's shopping history, where incentive coupons are issued to the customer based on the shopping history. In particular, Deaton generates a coupon for a customer to shop at the delicatessen when stored shopping data of the customer indicates that over a period of time the shopper shows a consistent failure to shop at the delicatessen (see, Fig. 18C including corresponding text). That is, Deaton is limited to incentive point-of-sale marketing in response to customer shopping histories, where the incentive is either maintained or reduced over a pre-selected time interval.

In contrast, the claimed invention calculates and accumulates the issued points and subtracts from the cumulative points in proportion to the time used for providing an electronic information service.

Independent claim 12 recites, "calculating the issued points to accumulate the issued points so as to get cumulative points" and "decreasing the cumulative points, by points which are consumed in proportion to an electronic information service providing time for providing the electronic information service during when the electronic information service being provided according to the cumulative points." Accordingly, "at least any of video information, voice information, software information, music information and database information" is provided "as the electronic information service to a customer terminal through a communication circuit."

Independent claims 15, 18 and 21 also recite, "calculating the issued points to accumulate the issued points so as to get cumulative points" and "decreasing the cumulative points, by points which are consumed in proportion to an electronic information service providing time for providing the electronic information service during when the electronic information service is being provided, according to the cumulative points." As such, "at least any of video

information, voice information, software information, music information and database information” is provided to the customer terminal “as the electronic information service.”

Deaton does not teach or suggest the above features including “calculating the issued points”, “decreasing the cumulative points... in proportion to an electronic information service providing time for providing the electronic information service” and providing any of “video information, voice information, software information, music information and database information”, as in claims 12, 15, 18 and 21.

It is submitted that the independent claims are patentable over the cited references.

For at least the above-mentioned reasons, claims depending from the independent claims are patentably distinguishable over the relied upon references. The dependent claims are also independently patentable. For example, as recited in claim 14, “providing information for displaying the decreased customer’s cumulative points on a screen of the customer terminal” (see also claims 17, 20 and 23 reciting similar features). The relied upon references do not teach or suggest these features of claims 14, 17, 20 and 23.

On page 3 of the outstanding Office Action, the Examiner acknowledges that Deaton does not specifically teach that the service or item are electronically provided via a customer terminal. However, the Examiner indicates that Official Notice is taken that it is old and well known in the computer related arts to provide services electronically such as video information, etc., to the customer via the customer’s PC in order to provide convenience to the customer. Applicants respectfully traverse the Examiner’s statement because supporting evidence related to the functionality of the claimed invention has not been provided, and respectfully request that the Examiner produce authority for the statement.

The Applicants specifically point out the following errors in the Examiner’s action.

First, the Examiner uses common knowledge (“well-known”) evidence for the rejection. As explained in the M.P.E.P.,

any facts so noticed should... server only to “fill in the gaps” in an insubstantial manner which might exist in the evidentiary showing made by the Examiner to support a particular ground for rejection. It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection is based.

M.P.E.P. § 2144.03

Second, the noticed fact is not considered to be common knowledge or well-known in the art. In this case, the limitation is not of notorious character or capable of instant and

unquestionable demonstration as being well-known. Instead, this limitation is unique to the present invention (see, M.P.E.P. § 2144.03(A) (the notice of facts beyond the record which may be taken by the Examiner must be “capable of such instant and unquestionable demonstration as to defy dispute”).

Third, there is no evidence supporting the Examiner’s assertion (see, M.P.E.P. § 2144.03(B) (“there must be some form of evidence in the record to support an assertion of common knowledge”).

Fourth, the Examiner appears to be basing the rejections, at least in part, on personal knowledge. The Examiner is required under 37 C.F.R. § 1.104(d)(2) to support such assertion with an affidavit when called for by the Applicant. The Examiner is called upon to support such assertion.

Further, even if the Examiner’s assertion and rejection based on common knowledge is valid, the claimed invention is distinguishable as discussed above.

Therefore, withdrawal of the rejection is respectfully requested.

NEW CLAIM:

New claim 25 has been added to recite, “calculating total points of a customer issued in association with transactions of the customer” and “decreasing the total points of the customer based on a lapse of time during which an electronic service is rendered to the customer.”

Deaton does not teach or suggest the above feature of claim 25 including, “decreasing the total points of the customer based on a lapse of time during which an electronic service is rendered to the customer”, as recited in claim 25.

It is submitted that new claim 25 is patentably distinguishable over Deaton.

CONCLUSION:

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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